IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2229 OF 2004

Mahadev Ganu Patil .. Petitioner
Vs.
Vishnu Sadashiv Patil .. Respondent.

Mr.Amit Sale for the petitioner.
Mr.V.B.Rajure for the respondent.

CORAM : D.B.BHOSALE, J.

DATED : 23RD FEBRUARY, 2005

P.C.:

. Heard Mr.Sale, learned counsel for the petitioner and Mr.Rajure, learned counsel for the respondent.

2. The impugned order is challenged solely on the ground that in a suit for redumption of mortgage a decree cannot be executed unless there is final decree. In other words, according to Mr.Sale, learned counsel for the petitioner, a preliminary decree cannot be executed unless there is final decree as contemplated under Order 34 Rule 7 of Code of Civil Procedure. In the present proceedings the suit was decreed with directions to the decree-holder to deposit Rs.10,000/- within two months. The

judgment-debtor was directed to accept that amount and to execute sale deed in favour of the decree holder. No question of taking accounts, computation of interest or other costs was involved in the suit and in view thereof the trial Court has rightly held that the decree is capable of being executed as final decree. The provisions of Order 34 Rule 7 of Code of Civil Procedure would not apply to the facts of the present case. I find no infirmity in the order. The writ petition, therefore, fails and is dismissed as such. Interim relief, if any, stands vacated.

(D.B.Bhosale, J.)